IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3490 OF 2006

Mahendra Bhaskar Mhatre .. Petitioner

Versus

Uday Ganpat Patil .. Respondent

Mr.J.K.Mhatre i/b.S.G.Karandikar for petitioner

Mr.A.J.Joshi for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 3rd December 2007

P.C.

. After the matter was heard for some time, Mr.Karandikar could not dispute that the petitioner has a remedy in law by which he could assert his right, title and interest in the

property and claim appropriate declaration also with regard to the right of way claimed by the respondent.

2. The Competent civil court while trying the civil suit will not be influenced by the findings of Mamlatdar inasmuch as whether the road was in existence or not and whether the right to pass through the same, which has been claimed, can be claimed by the respondent on the basis that he is successor in title or not are all matters, which must be decided upon oral and documentary evidence led and not by mere conclusion by the authorities in the orders impugned before me. All contentions in that behalf are expressly kept open. Petition dismissed with this clarification.

(S.C.Dharmadhikari, J)